UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1998/1129
30 November 1998
ENGLISH
ORIGINAL: ARABIC

IDENTICAL LETTERS DATED 29 NOVEMBER 1998 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL AND TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 26 November 1998 from Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of Iraq, giving examples of the false and extravagant claims described in the 8 July 1998 report of the Executive Secretary of the United Nations Compensation Commission (S/AC.26/1998/R.22) and pointing out that such claims have political objectives that are detrimental to the Iraqi people.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

Annex

Identical letters dated 26 November 1998 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General and to the President of the Security Council

I refer to our letters dated 22 July 1997 (S/1997/587, annex) and 30 September 1998 (S/1998/910, annex), in which examples were given of claims submitted to the United Nations Compensation Commission. I now wish to call attention to the category "E" and "F" claims described in the twenty-fourth report of the Executive Secretary to the Commission's Governing Council (document S/AC.26/1998/R.22 of 8 July 1998). The least that can be said of these claims is that they are extravagant in terms of the false assertions they contain, lack any legal basis and involve political objectives whose underlying purpose is to prejudice the needs and fundamental interests of Iraq's people, impoverish its national economy and seek unjust enrichment at its expense. This is tantamount to a deliberate persistence in impoverishing the Iraqi people and depriving it of its right to life and to development in a manner incompatible with the most elementary norms of international law, the principles of justice and equity and the relevant Security Council resolutions. Even resolution 687 (1991) affirms, in the context of compensation, the need for account to be taken of the requirements of the people of Iraq, Iraq's capacity to pay and the needs of the Iraqi economy.

The Executive Secretary's report contains examples of fantastic and unimaginable claims, a sampling of which I present hereunder.

> "25. One claimant seeks compensation for the loss of the business of the Government of Iraq as a result of the invasion. The claimant is a company specializing in cabinetmaking and the manufacture of contemporary furniture. In 1990 it was engaged as a contractor by the Government of Iraq to carry out work on a presidential palace in Iraq. The claimant fully completed the work under the two contracts with the Government of Iraq prior to the invasion and, during that time, did not work for any other customer or on any other project 'due to the importance of the contract' for the presidential palace.
>
> "26. Prior to the invasion, the claimant had anticipated being able to enter into further contracts with the Government of Iraq in the future. However, as a consequence of Iraq's invasion of Kuwait, the negotiations relating to those future contracts came to an end.
>
> "27. The claimant states that, after the invasion of Kuwait, it lost the Government of Iraq as a client since all communication with Iraq broke down and no further payments were received under the project contracts. The claimant requests compensation for what it describes as 'loss of sole client'. The claimant has calculated its loss over a three-year period commencing on the date of the invasion of Kuwait and includes in its calculation a component relating to loss of anticipated profits.
>
> "...

"29. The claimant also seeks compensation for costs incurred in dismissing a number of its workers who the claimant alleges were not suited to the domestic market of the claimant's country of incorporation, since they had all become specialized in the Iraqi market. As a consequence, the claimant alleges that, after it lost Iraq as a customer, it was forced to dismiss those employees and that it incurred losses in doing so. This raises issues similar to those outlined in paragraph 28 supra, ...

"...

"31. One claimant ceased operating on 2 August 1990 and did not resume operating after the end of Iraq's occupation of Kuwait. The claimant's permanent cessation of operations was allegedly caused by several factors, including the following: (1) its management's departure and inability to return, (2) the loss of all its employees, (3) the theft of most of its machinery, vehicles and equipment, (4) the heavy damage to its office and workshop facilities, (5) the cancellation of contracts due to Iraq's invasion and occupation, and (6) financial problems. The claimant submitted a loss of profit claim for the period of 2 August 1990 to 31 December 1992. ...

"32. Several claimants rented or hired vehicles to individuals and companies prior to 2 August 1990. These claimants engaged attorneys to procure the return of their vehicles after 2 March 1991. The attorneys also attempted to collect outstanding debts from these customers by writing letters and pursuing legal action. In addition to seeking compensation for these attorneys' fees, some claimants seek the recovery of their legal departments' overhead costs when their attorneys were primarily involved in collecting bad debts that allegedly arose due to Iraq's invasion and occupation of Kuwait. ...

"...

"34. One claimant owned a building that consisted of several flats. The building was allegedly fully leased before the invasion. Most of the tenants left after the invasion. After the end of Iraq's occupation the claimant tried to collect rent from the tenants for the period of occupation. The claimant was unable to collect this rent and the rent and the rent for three months after the end of the occupation. The claimant alleges that it was unable to collect this rent because the Government of Kuwait announced that all contracts, which included rental contracts, had been cancelled due to force majeur from 2 August 1990. Furthermore, due to the large number of vacant flats in Kuwait after the end of Iraq's occupation, the claimant could not force the tenants to pay rent for the occupation period since they threatened to leave and find another place to live. The claimant argues that, to reduce its losses, it had to try to keep its existing tenants by reducing rents. Rent could not be collected for the first three months after the end of Iraq's occupation because there was allegedly no electricity or water supplied to the building. Another claimant asserts that following the end of the occupation there was a depression in the rental market and the levels of rents and rates of occupancy of flats recovered only slowly. ...

"...

"48. One claimant is a non-profit organization whose operating expenses are funded by voluntary contributions from various Kuwaiti companies. It claims, inter alia, compensation for lost contributions. ...

"...

"56. Another claimant had destroyed Government-owned property including helmets, holsters, vests, flak jackets, a flag staff, video equipment and gas masks which were located at its Embassy in Kuwait, in order to prevent their misuse by the invading Iraqi military forces. ...

"57. Embassy officials of a claimant were forcibly required by Iraqi military personnel to evacuate personnel from Kuwait and Iraq during the last quarter of 1990. A private relief organization operated a relief service at an international airport of the claimant for three days in September 1990, in order to assist repatriates arriving on official repatriation flights from the Persian Gulf region. The claimant reimbursed the relief organization for the expenses incurred in providing these relief services to the repatriates. The payment covered the salaries of two officials for the three relevant days, the cost of food and toys that were distributed to repatriates and the telephone bills relating to this operation. ...

"58. Subsequent to Iraq's invasion of Kuwait, nationals of a claimant sought refuge in its Embassy in Kuwait in order to avoid being held as 'human shields' by Iraqi forces. Almost 200 citizens were living in the Embassy compound which normally accommodated only seven. Because the facility was overcrowded, the claimant experienced difficulty in maintaining basic sanitary standards. Within three weeks of the invasion, most of these persons were permitted to leave for home. Pursuant to the terms of the national plan of this claimant, its centre for disease control dispatched officials to the airports at which official evacuation flights landed so as to ascertain whether any of the repatriates were suffering from communicable diseases, in view of the unhealthy conditions in which they had been living at the Embassy in Kuwait. The claimant seeks compensation for quarantine and inspection costs. ...

"...

"68. The Armed Forces of Jordan made available mobile medical stations which provided free medical services to evacuees fleeing Iraq and Kuwait. As a consequence, the mobile centres lost the opportunity to earn revenues which they would ordinarily have earned. In addition to their claim for lost revenue, the Armed Forces claim for the recovery of the mobile medical stations' operational costs, for 'supplies consumed or lost', and for a mobile station damaged after travelling over 200 kilometres of unpaved road to reach evacuees needing assistance. ...

"69. The Ministry of Public Works and Housing is seeking to recover the costs of constructing and repairing certain roads from 1991 to 1996. The

claimant contends that those roads suffered damage as a result of the movement of a million returnees and evacuees. ...

"...

"71. In 1991, the Civil Defense General Directorate constructed two new civil defense bases to protect the growing permanent population of Jordan caused by the influx of returnees. The claimant seeks compensation for the maintenance costs of the bases, operational equipment such as fire trucks and ambulances, and the costs of training and equipping reservists and volunteers during the period from 1991 to 1995. ...

"72. The Public Security Directorate seeks compensation for providing police services to the increased population caused by the influx of returnees. The claim seeks compensation for the cost of recruiting new police officers and building new police stations during the period from 1990 to 1995. ...

"...

"75. The Ministry of Education seeks compensation for the increased cost of providing primary and secondary education to the returnees during the period 1990 to 1995. These costs include the cost of constructing and operating new schools, staff salaries, electricity, fuel, water, expenditures for books and stationery, rent for additional classrooms and telephone costs. The claimant also seeks to recover the cost of training to upgrade the skills of the newly hired school instructors and educational supervisors 'with an inadequate academic or practical education'. ...

"76. The Ministry of Higher Education seeks compensation for providing higher education to returnee students. The claimant additionally seeks recovery of the scholarships awarded to returnee students for the period 1990 to 1996 but not paid due to Jordan's financial problems resulting from Iraq's invasion of Kuwait. Further, the claimant seeks the cost of constructing a new university which it contends represents compensation for the increase in student population created by the influx of returnees and lack of finances to meet the increase. ...

"...

"81. The Greater Amman Municipality seeks compensation for the increase in various municipal expenditures and services after a large proportion of the returnees settled permanently in the Jordanian capital. Losses claimed include the cost of traffic planning, expropriation, construction of sidewalks, road repairing, libraries and 'computer acquisition and studies'. ..."

These claims, only some of which we have quoted, are like the other claims we quoted in our two previous letters on this subject. They are motivated by the attempt to seek unjust enrichment at the expense of Iraq, which is irreconcilable with the provisions of the relevant Security Council resolutions. They form an endless concatenation and have no rational limit, in violation of

the norms of international law and the international precedents, and their acceptance would give free play to untrue or exaggerated allegations. As we have said before, it is astonishing that the United Nations Compensation Commission should give consideration to frivolous and extravagant claims such as these.

I request you to have this letter circulated as a document of the Security Council.

(Signed) Mohammed Said AL-SAHHAF
Minister for Foreign Affairs
of the Republic of Iraq